MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COURTNEY TAYLOR

RESPONDENT,

v.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

APPELLANT.

DOCKET NUMBER WD74003

DATE: February 21, 2012

Appeal From:

Clay County Circuit Court
The Honorable Anthony R. Gabbert, Judge

Appellate Judges:

Special Division: Gary D. Witt, Presiding Judge, Zel M. Fischer, Special Judge and Kenneth M. Romines, Special Judge

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Attorneys:

John R. Cady, Platte City, MO, for respondent.

Dale L. Beckerman, Kansas City, MO, for appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

COURTNEY TAYLOR,

RESPONDENT,

v.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

APPELLANT.

No. WD74003 Clay County

Before Special Division: Gary D. Witt, Presiding Judge, Zel M. Fischer, Special Judge and Kenneth M. Romines, Special Judge

State Farm Mutual Automobile Insurance Company appeals from the trial court's judgment granting Courtney Taylor's motion for summary judgment, and denying State Farm's motion for summary judgment.

On October 31, 2007, Taylor, who was fifteen years old at the time, sustained serious injuries when she was struck, while walking, by a vehicle operated by Donna Scott. The parties stipulated that Taylor's damages equaled or exceeded $135,000. Scott's automobile insurance policy, issued by Chicago First Insurance, provided liability coverage limits of $25,000, and this amount was subsequently paid to Taylor.

At the time of the accident, Taylor was insured under two automobile policies purchased by her parents from State Farm. Both policies provided underinsured motorist coverage in the amount of $50,000. State Farm paid Taylor $50,000 for UIM coverage under one of the policies, but refused to pay UIM coverage under the second policy based on its contention that the policies precluded "stacking" of benefits pursuant to clear and unambiguous language in the policies.

On October 12, 2010, Taylor filed suit against State Farm in the Circuit Court of Clay County to recover an additional $50,000 based on the UIM coverage provided in the second policy. The parties filed cross motions for summary judgment. On May 10, 2011, the trial court entered its Judgment granting Taylor's summary judgment motion, and denying State Farm's summary judgment motion. Accordingly, the trial court entered judgment in favor of Taylor in the amount of $50,000.

REVERSED.

SPECIAL DIVISION HOLDS:

State Farm argues that the trial court erred in entering judgment in favor of Taylor because the Court "permit[ed] Plaintiff to stack underinsured coverage as a pedestrian because the $50,000 of underinsured benefits paid by State Farm fulfilled the obligation of State Farm in that each State Farm policy had underinsured policy limit of $50,000 and [because] each State Farm policy unambiguously stated that the maximum underinsured coverage available was the policy limit of the policy with the highest limit which State Farm paid by its payment of $50,000." The disputed issue is whether the policy language below precluded Taylor from recovering under the second Policy as a matter of law:

> **If There Is Other Underinsured Motor Vehicle Coverage**
>
> 1. If the *insured* sustains *bodily injury* as a pedestrian and other underinsured motor vehicle coverage applies: a. the total limits of liability under all such coverages shall not exceed that of the coverage with the highest limit of liability; and (emphasis original).

State Farm contends that the above language precluded Taylor from recovering under the second Policy because 1(a) of the Other Underinsured Motor Vehicle Coverage language "tells the reader that where multiple underinsured coverages apply, the total limit of all such coverages 'shall not exceed' the limit of the policy with the highest limit." Taylor sets forth numerous arguments as to why the relevant language of 1(a) is ambiguous and subject to different interpretations. Ultimately, under the facts of this case, we do not find the language ambiguous. A person reading the Policy would know that Section 1(a) applies if more than one policy covered a UIM claim because this section is entitled "**If There Is Other Underinsured Motor Vehicle Coverage."**

Because both of the State Farm policies undisputedly covered this UIM claim, Section 1(a) acts to limit the liability of "all such coverages" to the "highest limit of liability" in either policy; in this case, $50,000. On appeal, Taylor simply fails to articulate a plausible alternative reading of this provision, which would cause a reasonable lay person to believe that the limits of both policies would apply to the facts of this case.

The judgment of the circuit court, granting Taylor's motion for summary judgment, is hereby reversed. Finally, pursuant to Rule 84.14, we enter an order granting State Farm's motion for summary judgment.

Opinion by Gary D. Witt, Judge February 21, 2012

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